

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No.1255 of 2008

Sri Purusottam Dash & Ors.

Petitioner(s)

Mr.Ajit Rath.Advocate,

-versus-

State of Orissa & Ors.

Opposite Party(s)

Mr.N.K.Praharaj, Standing
Counsel

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
06.01.2022**

Order No.

01.

1. Heard learned counsel appearing for the parties.
2. This is a transfer application from Tribunal for adjudication by this Court in exercise of power under Article 226 of the constitution of India.
3. This application involves the following prayer:
“In view of the facts mentioned in para.6 above, the applicants pray for the following relief(s):
 - (i) The Hon’ble Tribunal be pleased to declare that the applicants possess the requisite qualification and they are within the prescribed age as in-service candidates for the purpose of direct selection to the post of Assistant Director of Sericulture and accordingly direct the respondents to allow the applicants to undergo the process of selection for appointment to such post as advertised under Annexure-6 series and in the event of their selection they shall be given appointment and all service benefits in the post of Assistant Director of Sericulture including future service benefits. And the Hon’ble Tribunal be pleased to pass such other order/orders as is deemed fit and proper in the facts and circumstances of this case.”

4. Entertaining the Original application deciding P.P.No.93 of 2008, the Tribunal being satisfied with the requirement at the relevant point of time passed the following:

“3. The second point relates to qualification. Learned counsel for the applicants submits that unless the qualification is specifically provided for, it is likely that the OPSC would ignore the higher qualification particularly when Diploma in Sericulture is not a necessary step for acquiring the degree of M.Sc. It is for the government to decide if this higher qualification would be considered by the OPSC or not. The Government so far as the qualification is concerned have referred to the Orissa Textile and Sericulture (Method of Recruitment and Condition of Service) Rules, 1993. I find from Schedule-C appended to the rules that the qualification prescribed for Assistant Director, Sericulture is exactly what has been provided in the advertisement. This qualification was incorporated in the rules at a time when M.Sc. degree was not being awarded as submitted by the learned counsel for the applicant. Further, the institution Central Silk Board has undergone a change of nomenclature and has been reconstituted with the title of Central Sericulture Research and Training Institute (C.S.R. & T.I). Further this institute is awarding M.Sc. degree in Sericulture. The applicants have been sponsored by the Government for taking M.Sc. degree from the University of Mysore. The applicants cannot ask for availing the benefit of this higher qualification unless the rules are amended. Prima facie there is intervening events which would make such a claim virtually impossible. The only way this can be done is by amending the rules and taking into account the developments that have been taken place in the meantime. As far as the rules are concerned in regard to the point of age relaxation, it is evident that the OPSC have not taken the instruction of the Government and have not notified the qualification. The anomaly in regard to the qualification as submitted by the learned counsel for the applicant has substance. In view of this the only course open to me is to hold up the examination until the matter is sorted out between the government and OPSC. The advertisement has already been published. The last date of receipt of the applicant has been filed as 27.8.08 which is already over. Therefore I direct that no further action be taken on this advertisement No.4 of 2008-2009 until the matter is sorted out by the government. Candidatures of the applicants which they claim to have already made would not be rejected until

the matter is sorted out. With this observation I admit the application and direct the Respondents to file counter within a period of four weeks from the date of receipt of a copy of this order. They may indicate in the counter the steps taken by them in consulting the OPSC for sorting out the anomaly that has been raised by the applicant. They may also suggest in consultation with the OPSC within a time frame within which a corrigendum will be required to be issued. The applicant is to file rejoinder within two weeks after filing of the counter by the Respondents.”

5. In the support of the proceeding here on production of a correspondence dated 2.3.2009 issued by the OPSC, Mr. Praharaj, learned Standing Counsel for the State brought to the notice of this Court that the relief of the petitioners with regard to the issue the petitioners over age, unable to apply pursuant to Advertisement No.4 of 2008/2009.

Placing reliance on letter dated 2.3.2009, Mr. Praharaj, learned State Counsel brought to the notice of this Court that the dispute raised by the petitioners having been redressed, necessary corrigendum has already been issued permitting the petitioners to apply against the advertisement No.4 of 2008/2009. For the development, this Court finds there is no further cause of action surviving to be agitated or adjudicated by this Court. It is at this stage of the matter, this Court referring to the submission of learned counsel for the petitioners that following the subsequent development even if allowing the petitioners, there has been some issue is pending consideration of this Court in a writ petition, this Court observes subsequent development are not the subject-matter in the O.A. and there is no reason to keep the O.A pending. This Court observes petitioners may find their further dispute redressed in the pending writ petition.

6. The O.A. stands disposed of as infructuous.

(Biswanath Rath)
Judge